

BPS-263

June 29, 2006

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 06-2683

U. S. DISTRICT COURT - DE  
MISC. CASE # 06-137

IN RE: LARRY FLOYD

Present: RENDELL, AMBRO AND GREENBERG, CIRCUIT JUDGES

Submitted are:

- (1) Petitioner's application pursuant to 28 U.S.C. § 2244 to file a second or successive petition under 28 U.S.C. § 2254; and
- (2) Respondent's answer thereto

in the above-captioned case.

Respectfully,

Clerk

MMW/MCF/slc

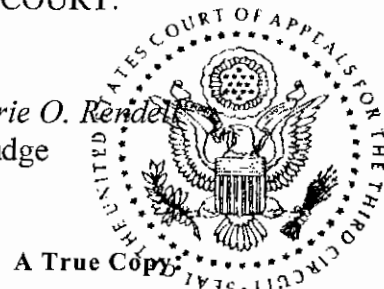
ORDER

The foregoing application to file a second or successive habeas corpus petition under 28 U.S.C. § 2254 is denied because the petitioner's claims do not meet the criteria prescribed by 28 U.S.C. § 2244(b)(2) for issuing such authorization. Floyd has not made a prima facie showing that his proposed motion contains either newly discovered evidence or a new rule of constitutional law made retroactively applicable by the U.S. Supreme Court. AEDPA's gatekeeping provisions are not impermissibly retroactive in this case because Floyd has not shown the district court could not have considered his claims under the law existing at the time his previous petition was filed. See In re Minarik, 166 F.3d 591, 609 (3d Cir. 1999).

BY THE COURT:

/s/ Marjorie O. Rendell  
Circuit Judge

Dated: July 14, 2006  
lwc/cc: Mr. Larry D. Floyd  
Loren C. Meyers, Esq.



*Marcia M. Waldron*

Marcia M. Waldron, Clerk